

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONTA WILLIAMS,

Plaintiff,

v.

CITY OF SACRAMENTO,

Defendant.

Case No. 2:24-cv-00768-TLN-JDP (PS)

ORDER

SCREENING PLAINTIFF'S FIRST
AMENDED COMPLAINT

ECF No. 6

Plaintiff, who is an unhoused individual proceeding pro se, filed a complaint alleging that defendants City of Sacramento, Sacramento Police Department, Department of Community Response, and Forensic Clean, swept his campsite and destroyed his property. Because the complaint fails to properly allege a cause of action against defendants, I will dismiss the complaint and give plaintiff an opportunity to amend his complaint.

Screening and Pleading Requirements

A complaint must contain a short and plain statement that plaintiff is entitled to relief, Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not

1 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
 2 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
 3 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
 4 n.2 (9th Cir. 2006) (en banc) (citations omitted).

5 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
 6 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
 7 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
 8 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
 9 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements
 10 of the claim that were not initially pled.”” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
 11 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

12 Analysis

13 On November 28, 2024, defendants confiscated and destroyed plaintiff’s personal
 14 property from his campsite on Stockton Boulevard in Sacramento. ECF No. 6 at 7-8. Following
 15 the confiscation of his property, plaintiff was handcuffed and detained for twenty to thirty
 16 minutes. *Id.* Plaintiff asserts that defendants violated the First, Fourth, and Fourteenth
 17 Amendments by unlawfully destroying his property. *Id.* at 4.

18 The complaint does not state a claim against the listed defendants. To state a *Monell*
 19 claim against the City of Sacramento, Sacramento Police Department, Department of Community
 20 Response, or Forensic Clean, the complaint must allege that (1) plaintiff was deprived of a
 21 constitutional right, (2) the City and/or Department has a policy, custom, or practice which
 22 amounted to deliberate indifference to that constitutional right; and (3) the policy, custom, or
 23 practice was the moving force behind the constitutional violation. *See Dougherty v. City of*
 24 *Covina*, 654 F.3d 892, 900-01 (9th Cir. 2011) (citing *Monell v. Dep’t of Soc. Servs.*, 436 U.S.
 25 658, 694 (1978)). “[A] local government may not be sued under § 1983 for an injury inflicted
 26 solely by its employees or agents.” *Monell*, 436 U.S. at 694. Instead, a local government may be
 27 sued when an employee who committed a constitutional violation was “acting pursuant to an
 28 expressly adopted official policy, longstanding practice or custom, or as a final policymaker.”

1 *Thomas v. Cnty. of Riverside*, 763 F.3d 1167, 1170 (9th Cir. 2014) (citing *Monell*, 436 U.S. at
2 694). The complaint makes no allegations that any defendant has a policy, custom, or practice
3 that was the moving force behind plaintiff's alleged constitutional violation.

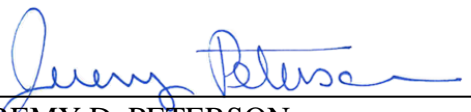
4 Plaintiff may file an amended complaint. He is advised that the amended complaint will
5 supersede the current complaint. See *Lacey v. Maricopa Cnty.*, 693 F. 3d 896, 907 n.1 (9th Cir.
6 2012) (en banc). This means that the amended complaint will need to be complete on its face
7 without reference to the prior pleading. See E.D. Cal. Local Rule 220. Once an amended
8 complaint is filed, the current complaint no longer serves any function. Therefore, in an amended
9 complaint, as in an original complaint, plaintiff will need to assert each claim and allege each
10 defendant's involvement in sufficient detail. The amended complaint should be titled "Second
11 Amended Complaint" and refer to the appropriate case number.

12 Accordingly, it is hereby ORDERED that:

- 13 1. Plaintiff's first amended complaint, ECF No. 6, is dismissed with leave to amend.
- 14 2. Within thirty days from service of this order, plaintiff shall file either (1) an amended
15 complaint or (2) notice of voluntary dismissal of this action without prejudice.
- 16 3. Failure to timely file either an amended complaint or notice of voluntary dismissal may
17 result in the imposition of sanctions, including a recommendation that this action be dismissed
18 with prejudice pursuant to Federal Rule of Civil Procedure 41(b).
- 19 4. The Clerk of Court shall send plaintiff a complaint form with this order.

20
21 IT IS SO ORDERED.

22 Dated: November 5, 2024

23 
24 JEREMY D. PETERSON
25 UNITED STATES MAGISTRATE JUDGE
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